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No. 0825 P. 3

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Appl. No. 10/789,224
Amdt. Dated 12-6-06
Reply to Office Action of 9-6-06

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application.

PREVIOUSLY AMENDED CLAIMS ARE PATENTABLE

Regarding the examiner's rejection under 35 U.S.C. § 103(a), Applicant resubmits that the combined teachings of Jones and Epstein do not teach all the recitations of Applicant's claimed invention. The examiner states, "applicant never claimed that the flashing signal stops before the brake pedal is engaged", on page 5 of the office action dated 9-6-06. Such a statement is clearly incorrect. Independent claims 1, 6 and 8 clearly state, *inter alia*, "**said light switch being operably connected to the first vehicle brake light and for causing same to flash during an interval defined after an accelerator pedal is released and before the brake pedal is engaged**" (emphasis added).

Neither Jones nor Epstein teaches such a claimed recitation because their warning signal will turn on when engine braking is detected (column 5, lines 43-45). Jones necessarily and inherently activates its deceleration warning signal when its vehicle decelerates or engine brakes (see column 5, lines 35-49). Thus, Jones teaches the opposite to applicant's claimed flashing signal that stops before the brake pedal is engage. Applicant's brake light will turn off when its brake pedal is engaged, as claimed in the independent claims. Jones clearly states that its warning signal starts when engine braking is detected (column 5, lines 43-45). Therefore, any hypothetical combination of Jones and Epstein does not teach all of applicant's claimed recitations.

Applicant respectfully submits a person of ordinary skill in the art would not combine Epstein's flashing light with Jones's system "to provide more comprehensive notification to the driver of the following vehicle," as reasoned by the examiner. Jones cannot operate a flashing light because its pressure control unit 18 filters out all but the slower pressure changes and absorbs rapid air pressure changes that are associated with flashing its lights on and off (see column 5, lines 57-63). In fact, Jones' intended function is to prevent the cyclic pressure fluctuations in its intake duct (see column 5,

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lines 53-56) and, therefore, prevent unnecessary flashing warning signals. Based upon such teachings, a person of ordinary skill in the art knows that it is difficult if not impossible to quickly enable and disable Jones's air flow rate into and out of its plenum 32 in a constant and repetitive manner. Accordingly, Jones necessarily must employ a non-flashing light in order to properly perform its intended function. A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. See *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

It is respectfully submitted that the combined teachings of the references applied by the Examiner fail to disclose or even suggest the subject matter of the claims at issue. In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the above mentioned arguments. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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